

Message Text

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ACTION OES-06

INFO OCT-01 EUR-12 ISO-00 ACDA-07 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 COME-00 DLOS-06
DODE-00 DOTE-00 EB-08 EPA-01 ERDA-05 FEAE-00
FMC-01 TRSE-00 H-01 INR-07 INT-05 IO-13 JUSE-00
L-03 NSAE-00 NSC-05 NSF-01 OMB-01 PA-01 PM-04
PRS-01 SP-02 SS-15 USIA-06 SAL-01 /120 W
-----251951Z 107323 /50

R 251817Z MAR 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 6843
INFO USMISSION EC BRUSSELS
USMISSION USBERLIN
USMISSION NATO BRUSSELS
AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 05344

E.O. 11652: GDS
TAGS: PFOR PGOV EEC UR WB GW US UK FR
SUBJECT: EC/SOVIET FISHERIES NEGOTIATIONS: BERLIN,
THE TERRITORIAL CLAUSE AND THE EC/US AGREEMENT

REFS: (A) STATE 63984; (B) BONN 5120; (C) USEC 2403;
(D) BONN 4251

BEGIN SUMMARY. BECAUSE OF SOVIET INTEREST IN THE LACK
OF A TERRITORIAL CLAUSE IN THE EC/US FISHERIES
AGREEMENT, THE FRG IS CONSIDERING DISCUSSING WITH THE
COMMISSION THE POSSIBILITY OF AN EXCHANGE OF LETTERS
BETWEEN THE EC AND THE US. SUCH AN EXCHANGE, IN
THE FRG VIEW, MIGHT CONFIRM THE UNDERSTANDING OF BOTH
SIDES THAT THE AGREEMENT COVERED THE NORMAL AREA OF
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APPLICABILITY (I.E., BERLIN). END SUMMARY.

1. DURING THE MARCH 22 BONN GROUP DISCUSSION OF EC
FISHERIES NEGOTIATIONS WITH THE USSR, POLAND, AND THE
GDR, DISCUSSION RETURNED TO THE FACT THAT THE SOVIETS
HAD INDIRECTLY REFUTED THE EC CONTENTION THAT
TERRITORIAL CLAUSES (WHICH COVERED BERLIN) WERE

STANDARD IN ALL EC AGREEMENTS BY POINTING OUT THAT THERE WAS NO SUCH CLAUSE IN THE EC-US GIFA (PARA 7, REF D). US REP SAID HE UNDERSTOOD A SOVIET OFFICIAL HAD ALSO APPROACHED EMBASSY BRUSSELS TO ASK ABOUT THE ABSENCE OF A TERRITORIAL CLAUSE IN THAT AGREEMENT.

2. FRG REP (HENZE) STATED THAT, WHILE THE ANSWER GIVEN THE SOVIETS BY THE EC WAS TECHNICALLY CORRECT -- THAT THE EC/US GIFA WAS NOT RECIPROCAL AND APPLIED ONLY TO US WATERS, HENCE THE TERRITORIAL CLAUSE WAS NOT ESSENTIAL -- IN POINT OF FACT FAILURE TO INCLUDE A CLAUSE COVERING BERLIN WAS AN OVERSIGHT WHICH THE FRG REGRETTED. FRENCH REP (BOISSIEU) SUGGESTED THAT THE OVERSIGHT BE CORRECTED AND WONDERED WHETHER THERE MIGHT NOT BE AN EXCHANGE OF LETTERS BETWEEN THE EC AND THE US CONFIRMING THE UNDERSTANDING OF BOTH SIDES THAT BERLIN WAS INCLUDED IN THE AGREEMENT.

2. ON MARCH 23 HENZE INFORMED US THAT HE HAD DISCUSSED THE MATTER FURTHER WITH EC EXPERTS IN THE FOREIGN OFFICE. THE FOREIGN OFFICE AGREED THAT CORRECTIVE STEPS SHOULD BE ATTEMPTED AND WOULD BE INSTRUCTING THE FRG MISSION IN BRUSSELS TO DISCUSS THE MATTER WITH LEGAL EXPERTS AT THE COMMISSION. THEY WILL APPARENTLY EXPLORE THE POSSIBILITY OF AN EXCHANGE WITH THE US WHICH WOULD IN EFFECT MAKE UP FOR THE MISSING TERRITORIAL CLAUSE.

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3. COMMENT: THERE ARE ARGUMENTS BOTH FOR AND AGAINST SUCH AN UNDERTAKING. THE REASONS FOR CORRECTING THE RECORD AT THIS POINT WOULD BE TRANSPARENT TO THE

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 05344

SOVIETS. ALSO, OUR READING OF THE US/EC GIFA MAKES
IT DIFFICULT TO SEE HOW A STANDARD TERRITORIAL CLAUSE
COULD HAVE BEEN FITTED IN, EVEN IF IT HAD BEEN THOUGHT OF
IN THE COURSE OF THE NEGOTIATIONS.

4. ON THE OTHER HAND, IF THERE WERE AN INFORMAL
EXCHANGE OF LETTERS OF THE SORT THE FRENCH AND FRG
REPS ARE CONSIDERING, THE SOVIETS COULD BE TOLD, IF
THEY CITE THE US/EC AGREEMENT AS A PRECEDENT FOR
OPPOSING THE TERRITORIAL CLAUSE, THAT BOTH
PARTIES HAD CONFIRMED IN WRITING THEIR UNDERSTANDING
THAT THE AGREEMENT APPLIED ON THE EC SIDE TO THE
NORMAL AREA OF APPLICABILITY OF EC AGREEMENTS. HAVING
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SUCH A WRITTEN EXCHANGE, IF MODALITIES COULD BE WORKED
OUT, WOULD ALSO BE CONSISTENT WITH THE LONGSTANDING
ALLIED EFFORTS TO ASSURE THAT BERLIN IS INCLUDED FULLY
IN EC MATTERS.

5. WE HAVE NO SPECIFIC RECOMMENDATIONS TO MAKE AT THIS
POINT AND BELIEVE THE INITIATIVE SHOULD BE LEFT FOR
NOW WITH THE FRG AND THE EC. ONE POSSIBILITY THAT COMES
TO MIND WOULD BE THAT A REFERENCE TO THE AREA OF
APPLICABILITY MIGHT BE INCLUDED IN THE PENDING EXCHANGE
OF NOTES DISCUSSED IN REFTEL (A).
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, TREATY COMPLIANCE, FISHING LIMITS, FISHING AGREEMENTS, BERLIN QUADRIpartite MATTERS
Control Number: n/a
Copy: SINGLE
Sent Date: 25-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
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Subject: EC/SOVIET FISHERIES NEGOTIATIONS: BERLIN, THE TERRITORIAL CLAUSE AND THE EC/US AGREEMENT
TAGS: PFOR, PGOV, UR, WB, GE, US, UK, FR, EEC
To: STATE
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